

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Regular Meeting and Public Hearing

April 10, 2013

Chairman David Pruet called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in Conference Room L101 at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut.

I. ROLL CALL AND SEATING OF ALTERNATES

Commissioners Present

Commissioner Carol Anest
Commissioner Michael Camillo
Commissioner Cathleen Hall
Commissioner David Lenares
Chairman David Pruet
Commissioner Stanley Sobieski
Commissioner Frank Aieta-A
Commissioner Audra Ekstrom-A
Commissioner Kenneth Leggo-A

Commissioners Absent

Vice-Chairman Michele Camerota

Staff Present

Craig Minor, Town Planner

Commissioner Leggo was seated for Vice-Chairman Camerota

II. APPROVAL OF AGENDA

Chairman Pruet: Mr. Minor, any changes to our agenda?

Craig Minor: No sir.

III. PUBLIC HEARING

A. Petition 15-13 Zone Change (Planned Development to Planned Residential at 2116 Main Street. Town Plan and Zoning Commission, applicant/contact, State of Connecticut Department of Transportation, owner.

Chairman Pruet: Mr. Minor, would you please present what you have so far on this petition?

Craig Minor: Yes Mr. Chairman. I'm going to read a memo that I drafted. Actually I drafted an earlier version which the Commissioners got in their package, and if anybody saw it on line, that's the memo that I will be reading, but I modified the opening section and the closing section, but my description of the zones in question is not in here.

Description of Petition 15-13:

During the recent public hearing on the proposed Firestone Complete Auto Care facility at 2909 Berlin Turnpike, it was noted that the "house" at 2116 Main Street is in the Planned Development zone and not in the Planned Residential zone as many people had thought. It was the feeling of several members of the TPZ that the parcel is improperly zoned which led to the TPZ initiating this proposed zone change.

The subject property is a one-acre lot on Main Street. It is surplus State owned property which DOT is in the process of selling. DOT is marketing it as commercial (not residential) property due to the fact that it is in the PD zone. There is a house on the property, but use of it as a dwelling is no longer a non-conforming use because the State abandoned that use when they started using it for covert law enforcement operations several years ago.

Staff Comments:

1. Planned Residential Zone

The RP zone is a multi-family, although single family houses are allowed, residential zone with a maximum density of 5.5 units per acre. Housing for the elderly and single family entry level housing development is also allowed at up to 20 units per acre by Special Exception. There are roughly two dozen RP zones in Newington.

The sections of the zoning regulations that deal with the RP zone were deleted sometime between July 1992 and February 1993, but apparently some vestige of them must still exist, since the Sterling Drive/Barkledge Drive development is in the RP zone and it was approved as recently as 2005. I need to do more research into this, but I have not been able to find out how that project got approved.

2. Planned Development Zone

The PD zone is a commercial zone that allows a wide variety of retail, professional, and personal service uses, as well as auto related uses and multi-family development by Special Exception. There are seven PD Zones in Newington.

3. Adjacent Development

- a. The area abutting the subject property on the northwest is zoned RP and is the site of the Hopkins Drive medium-density residential neighborhood.
- b. The area abutting the subject property to the northeast, east and south is zoned PD. The parcel to the northeast is the remainder of the twenty-acre lot that the subject property was formerly part of; it is undeveloped but significantly impacted by wetlands and restricted access to the Berlin Turnpike. The parcel to the east is the site of the proposed Firestone Complete Auto Care facility. The parcel to the south contains the existing walk-in medical office, formerly Krispy Kreme, as well as the Bonefish Grill restaurant now under construction.

4. Impact of the Proposed Zone Change on the Subject and Adjacent Properties

- a. Section 3.10.3 and Section 6.10.5.B combine to require a 25' landscaped buffer between the PD and the RD zones. This buffer can be waived by the TPZ for good cause. The Bonefish Grill site plan and the Firestone Complete Auto Care sit plan do not provide for such a buffer.
- b. Conventional single family houses do not appear to be permitted in the RP zone. However, there appear to be numerous exceptions to this, such as the Sterling Drive/Barkledge Drive Development and in fact the adjacent home at 2110 Main Street.

5. Plan of Conservation and Development

The POCD states that it should be used by the TPZ when making decisions on:

- Zoning amendments for map changes setting density standards, property use and building lot criteria.

That being said, I did not find any language in the POCD that gives clear guidance on this proposed zone change.

6. Property Owner:

I met last week with representatives of the DOT property management office.

They expressed serious concern over the timing of this proposed zone change, because the property is being marketed right now as non-residential and this uncertainty over how the property may be used is causing problems with the sale. Obviously any party who wants the property for a commercial use will not bid on it if the zoning could change to residential, and anyone who might have been interested in the property as a dwelling was put off from bidding on it because the DOT is marketing it, quite properly, as for commercial use only.

Chairman Pruet: Okay, thank you. This is a public hearing, and I would like to ask the public, anybody to come forward and speak in favor of the present petition which would be changing it from Planned Development to Residential. Anybody at this time wish to speak in favor of this?

Laura Bielitz, 2110 Main Street: There was also an e-mail submitted today?

Craig Minor: I didn't receive one.

Laura Bielitz: Okay, Colleen had sent a written e-mail, that I have copy of, if I could read it. These are my words. Dear Mr. Chair, I am seriously concerned about the value of my property being affected by the recent changes made by the Zoning Commission. My family and I have continually strived to continue to make improvements to our home, and our property. The town plan that was created by a number of members of this board has been disregarded in many ways. I understand that it is not always easy to keep a balance between commercial and residential zones but specific safeguards should be kept in place to protect property owners. Once again, I will state for the record that your plan calls for you, the Newington Town Plan and Zoning Commission to one, protect and conserve the quality of existing housing stock from neglect, incompatible neighboring uses and disinvestment. Maintain quality residential neighborhoods by avoiding the intrusion of non-compatible uses

and non-residential traffic and plan with sufficient buffers adjacent to commercial use. Maintaining residential district boundaries and protect residential properties from commercial encroachment, protect residential properties from non-residential uses; and transitional areas with landscape buffers and controls to mitigate potential abuses; to review standards for buffer areas between residential and non-residential uses and strengthen where needed, especially along the Berlin Turnpike where single family uses abut commercial zones. By changing 2116 back to it's original distinction as planned residential, you can stem the commercial encroachment that has already begun to take place. You can help to protect and preserve the quality of existing housing stock from incompatible neighboring uses, non-residential traffic, and disinvestment. I will ask that you consider buffering residential properties from non-residential uses, and transitional areas with landscape buffers and use control to mitigate potential nuances. The property at 2116 Main Street is presently vacant but zoned residential and should be afforded the same safeguards and be shielded from commercial encroachment and provided with buffers as well if it is to hold value. At the March 27, 2013 meeting, Chairman Pruett stated, and I quote, this might be a good time to put this out to the public that our intentions are to notify the Department of Transportation of our interest in changing the zoning requirements of that present property which is that State building that is presently planned development. We are going to discuss with them, put them on notice, that we would like to propose a change in the residential zoning, so they are going to be officially notified, they have been officially notified because that property, they are taking offers on it. It closes I think April 17th, so they are officially being informed of our intention to open a public hearing to change that zone. So I would just like this on the record. End quote. Chairman Pruett, you said in your closing remarks we want to protect the public. Well then protect us please and move forward with having 2116 Main Street known as Planned Residential. Commissioner Aieta, we would like to thank you for looking out for the people of Newington. At the last meeting you stated regulations that require a buffer between commercial zone and residential zone and also stated that the Commission is not adequately protecting from the visual and noise pollution. We agree with you and thank you for looking out for the residents on Main Street and the residents on the west. Commissioner Anest agreed as well that the buffer has not been addressed. The Commission stated in their plan that they will buffer a residential properties from non-residential uses, and transitional areas with landscape buffers and use controls to mitigate potential nuances. The Commission stated that they will review the standards for buffered areas between residential and non-residential uses and strengthen where needed. Please do all that you said you would do. Those are your words, Newington Town Planning and Zoning Commission, not mine. You are here to protect and serve the people of Newington not corporate interest. I can not and will not take the initiative to protect the public if you cannot and will not take the initiative to protect the public then seriously ask yourselves why you serve on this board, for you are doing the people no justice.

Chairman Pruett: Thank you. Further comments from the public on this petition?

Lori Dabowski, 2107 Main Street: I also own 2121 Main Street. I live directly across the street from 2116 Main Street. I think it is very important to keep this house a residential use. It's always been a residence. I know when the state first took over this property it was rented to several different families, so if it was Planned Development, it was rented, and then when the State Police or whatever moved in, maybe that was the change, but the State always rented it as a single family home. The State of Connecticut destroyed most of our neighborhood in 1970 when they tried to build I-291. They moved everybody out, they knocked down the trees, they did a very great disservice by doing that and then doing nothing. It says, the State of Connecticut told us that they spent over a thousand dollars marketing this property. Most of the neighborhood would be willing to pay them back for what they spent for marketing this property, if they are willing to change it back to residential, and

the bid, we actually sent for some of the bid information, and it says, this bid can be stopped at any time. Just wanted to let you know. So, think about it, keep it a residential property, it buffers everybody from the highway. Once you make it Planned Development, our neighborhood is going to move. Thank you.

Chairman Pruett: Thank you. Further comments from the public on this petition?

Sue Berham, 2 Hopkins Drive: I was appalled when I heard that it was going to go commercial. I'm totally against it. I live on Hopkins Drive, a neighborhood, a cul-de-sac, I'm right on the corner, the traffic is pretty light, we have a lot of children, my daughter is now seventeen. I've seen kids that have been born and grown up, my daughter has been there since she was about three years old, so we've been there a long time. I just don't think it should be commercial. I know it's, whatever, but I think it should remain residential. A nice family could go in there, we don't need to build anything there any more, we don't need more traffic, we have to think of the children's safety. As I said, traffic is fine, but we have two more coming, the fish place and Firestone, so a lot more traffic is coming through there, and I'm just appalled that anybody would consider it to be commercial. I think it needs to be, remain and stay as a residential property, a nice family move in, and keep it at that. I hope you consider it, I think commercial is off the table, and leave it as residential for our children, for our property values, for the traffic, just preserve it. Thank you.

Chairman Pruett: Thank you. Further comments from the public?

Laura Berlitz: I can submit this e-mail from Colleen.

Chairman Pruett: Why don't you read it?

Laura Berlitz: Okay. From Colleen Belitz, 2110 Main Street, she sent this e-mail probably just before noon this morning. Dear Mr. Chair: Our family is obviously concerned with the recent changes that have been made by the Zoning Commission. We feel that the Commission has made an attempt to stem the tides of commercial encroachment on our property by designating the property at 2116 to be returned to its original status as residential property and not kept as commercial use. On March 27th, meeting Chairman Pruett stated the town's intentions to notify the Department of Transportation of its interest in changing the zoning requirements at 2116 Main Street to residential. We also received a letter in the mail from the Town Planner, Mr. Minor, that that was going to happen. At the last meeting on March 27th, there seemed to be some confusion over safeguards that should be in place to protect tax paying property owners. I mention this as it impacts 2116 Main Street if it's going to be zoned residential. Once again I'll state for the record the Newington Planning and Zoning created a plan dedicated to protect and preserve the quality of existing house stock from neglect, and she just goes through the bullets that I went through as well, You specifically need to review your standards for buffer areas between residential and non-residential uses, and strengthen them where needed. As you see, especially along the Berlin Turnpike, where single family uses abut commercial zones. I'm unsure why the buffer standards have not been reviewed, why they have not been strengthened, and why they are not current in practice. As the Zoning Commission, anything to protect your residents should be made a priority and put into action promptly. By not conducting your due diligence, you leave the residents of Newington open to exploitation and development companies will take advantage of this opportunity as it is not their responsibility to protect anyone but themselves. I ask two things of the Newington Town Plan and Zoning Commission, I ask that you keep your word and change the zoning at 2116 Main Street, to residential and I also ask that you hold true the plan document that you created. I pray that you are people of good conscience and that you are sincerely looking out for the best interest of the people of your town.

Edmund Burke stated that hypocrisy can afford to be magnificent in its promises, never intending to go beyond promises, it costs nothing. I ask that you please go beyond your promises, put action behind your words and do not let down the people who are counting on you to do the best thing. Best regards, Colleen Bielitz.

Chairman Pruet: Thank you. Anyone else from the public wishing to speak in favor?

Rose Lyons, 46 Elton Drive: Although I don't live in the area, I was here in the seventies when that area was destroyed, in my estimation, by the State of Connecticut. They came in, they took the land, and then they did nothing. I sat here through these meetings, and have heard the neighbors passionately speak about their neighborhood, and how they would like to keep commercial businesses away from their property. The issue at hand isn't Firestone, maybe you can't do anything about that, but this is something that's been brought forth in discussions around this table regarding the property at 2116 Main Street, and the way that it is zoned. If it is at all possible to change that zone, to at least give these residents some sense of a community there, that they don't have to worry about this particular piece of property, going commercial, I would ask that you do so. The State of Connecticut seems to like to jam everything down Newington's throat every time, and I'm talking about the busway, the highways to nowhere, and now you have an opportunity to take care of this. I live in the north end of town, I live off Main Street. I have no connection to this area other than shopping, and I have my concerns when I am coming in and out of Price Chopper, when I am taking a left hand turn to go down towards the center, and I can't imagine what is going to happen if you add another commercial property there, so please consider this for the people who live in that area. Thank you.

Chairman Pruet: Thank you Mrs. Lyons. Further comment from the public on this petition?

Michael Fox, 1901 Main Street: Just want to know, I live at the first light, about a quarter mile back, and I would be in favor of this being residential, but I have a question, in fact I was looking up 2116 Main Street and it does say commercial, but it's got all kinds of acreage that runs all the way behind Firestone out there. I'm just wondering if that is part of the parcel?

Craig Minor: There is some legitimate confusion, the tax assessor's map shows all the DOT property as one parcel because I guess from the assessor's point of view it doesn't matter because it is all tax exempt anyway, but it is actually several different parcels. Historically it is several different parcels, it is one of the original parcels that we are talking about today which is, in this area here where I am moving the hand around, this is my first time using the equipment so next time I'll have a laser pointer that will be a little more hi-tech.

Michael Fox: Okay, thank you.

Chairman Pruet: Okay, thank you Mr. Fox. Anybody else from the public wishing to speak in favor of this motion?

Jo Lescott: I live at 2121 Main Street and I am for this home being residential and agree with all of the comments.

Chairman Pruet: Anybody else? Anyone from the public wishing to speak against this petition?

Amy Martinez, Ct Department of Transportation: Good evening. Just to give a little background. The property is located at 2116 Main Street, acquired by the Department of Transportation in 1974 for the I-291 project. The Department of Transportation transferred

custody and control of the property in January of 1997 to the Department of Public Safety and in 2011, October of 2011 the office of right of way of the Department of Transportation was notified that the property was no longer needed by that agency. Subsequent to their vacating, another state agency, Consumer Protection utilized the property on a short term basis until last November. In preparing for the property sale, a property agent from our office made contact with the Town of Newington last March to ascertain (inaudible). The DOT prepared a map highlighting the 24,000 square foot, a letter with a map was sent to the Town of Newington Zoning Office last summer in August. They confirmed that this property was located in a PD Zone. The DOT received written confirmation that the property was non-conforming and located in a PD Zone. An appraisal was prepared by the department, and staff appraisers, Anthony (inaudible) and staff also contacted the zoning office to determine the correct zone and roughly what would be permissible. An appraisal was done in December and the property was appraised. At that time the town requested that we show how the property came to be, as it was a combination of parcels of the original lot purchased at 2116 Main Street. After a conversation between the town and the office, it was determined that a map should be filed to illustrate the block for sale because it was no longer a lot of record as the Town Assessor's office had combined excess state property on the Assessor's map and it did not appear to be a stand alone lot. A map was filed on February 26, 2013 with the Town Clerk in preparation for the sale of the property. A For Sale sign was placed on the property, advertising appeared in the Courant, and local papers, and a bid date, April 17th, was scheduled. This office did not hear of the application for a zone change until April 4th, 2013, when an interested bidder happened to call and say that there were hearing signs on the property. This has put the DOT in the untenable position of not being able to inform interested parties of the potential development of the hearing. The DOT would like to divest itself of this property and return it to the tax roles for the Town of Newington. However, the potential of the zone change at this late time of the game has left a cloud over the sale. If the State does not receive any bids next week, or if there is a zone change, (inaudible) If DOT is unable to sell the property, it may end up vacant for some time as it has been cleared and we cannot release it and have it used as a residential property. We would have to find a suitable tenant for the property. Having a vacant property around is not in the best interest of the State or the Town and in general is an attractive nuisance and will be prone to vandalism. We have had a lot of experience with vacant properties. In addition, to answer some of the questions from the minutes last week regarding the buffer between residential and commercial zones, the Town, I understand the residents really feel strongly about that, and I would feel the same way, but having a house, our feeling is that this is a residential structure which would be a perfect office, doctor's office, lawyers office, real estate office, something like that, it would be something that would be pretty much turn key, it's in very good condition and I would think that that would be a very good transition. You wouldn't have commercial, if you keep it as a PD there is the potential that it could be used as office space or something of the like. Also, because Main Street is a state road, I think it's important to know that any prospective bidder who is looking to put a development on the property is also going to have to get a curb cut permit for access, but would need traffic count and things like that, because anybody coming out of that site and bringing a lot more traffic onto Main Street with the light change and all that, so there is a likelihood that it may not be a feasible (inaudible)

Chairman Pruet: Thank you. Anyone else from the public wishing to speak against this petition? At this time, rebuttal on anything you might have heard so far on this, from the public or Commissioners.

Laura Bielitz, 2110 Main Street: I just wanted to make a comment about the proposal, that it could turn into a doctor's office or something that is less invasive then let's say a Firestone or a Taco Bell or something like that in the area. I understand that, I get that, but that doesn't guarantee leaving it as Planned Development does not guarantee that this is the kind of

business that is going to go in there. Anything can go there. We never expected to have a huge you know, car maintenance place in the woods behind our house, but anything can happen, so it just makes me a little bit hesitant that we could get swayed by saying it could be a doctor's office, which sounds lovely, would be great, but that also could not happen, and it could be much worse, so you need to think about those considerations if it is still considered Planned Development. Thank you.

Chairman Pruet: Thank you. Any further rebuttal?

Rose Lyons, 46 Elton Drive: I wanted to comment over the fact that DOT would have jurisdiction over curb cuts. I sat through a lot of meetings for traffic studies, Toll Brothers, Victory Gardens, the busway, and it's all fine and good for someone who doesn't live in the Town of Newington, to come here and tell us about the traffic because they have done a study, for a few days or a few hours or whatever. Having worked on Cedar Street for over twenty years, I've seen the traffic congestion there. Having lived in Newington for over sixty-five years, I've traveled the roads many times. I heard stories about how they were going to take care of things on Willard Avenue when Victory Gardens came in. I'm still trying to navigate between the high school and my street because of the lack of repair to the road. So saying that the DOT is going to make sure that the curb cuts are right and so forth and so on is all find and good, to sit here and say that, but to live it is another story. Thank you.

Chairman Pruet: Okay. Commissioner comments at this time would be appropriate.

Commissioner Anest: I have a question. Why did you make this a RP zone?

Craig Minor: Because as you can see from the zoning map, that is the abutting residential zone. If I had suggested making it R-12 or R-7, that would probably be considered spot zoning because it wouldn't be adjacent to an existing R-12 or R-7 zone.

Commissioner Hall: We've gotten the history of this property, but it starts with the purchase by the State of Connecticut in 1974. What was it before? Wasn't it a residential zone originally? It had to be, because I remember the family that used to live there. So, if this started out as residential, and when the State took it over they created this zone, why couldn't we go back to the way it was originally? Because nobody has given us a history past 1974.

Commissioner Aieta: I think we need to go beyond that point of 1974 and find out exactly what the prior zoning was before the State's involvement with this piece of property. Also, how did the zone change on that whole parcel, to be PD. Apparently it hasn't been done by the Zoning Commission to rezone that property, we still need to know what it was before. I agree with Commissioner Hall, that if it was an existing R-7, R-12, R-20, lot then I can't see why we can't turn it back into that zone. It would not be spot zoning, because that was the original underlying zone that the original zoning map proposed. All of these changes, as the public eloquently told us, because of the State of Connecticut's problems that they caused for the Town of Newington with 291. Buying up all of our land, abandoning it, putting in their castle on the Berlin Turnpike on our land, a swath that cut through our town that still is a scar to the Town of Newington. I mean, they caused their own problems. Now they are coming to us and asking us because of a thousand dollars or whatever they spent on advertising, this is something that we shouldn't do? We have to protect the neighborhood, and protect the people who live in that neighborhood. We've already put on them commercial development on the Berlin Turnpike. I was the one who thought that this should have been changed back to a residential zone to protect the neighborhood. You could also accomplish buffering on this piece of property if it stays as residential. You could insist on the twenty-five foot buffer zone at the back of this property to protect the residents.

Chairman Pruet: Further comments? Okay, I think we should keep this open, and do some more research on it, and we have keen interest and investigation of this, we're going to keep this open. Thank you.

IV. **PUBLIC PARTICIPATION** (for items not listed on the agenda; each speaker limited to two minutes.)

Rose Lyons, 46 Elton Drive: I know this is like beating a dead horse, but I don't know what our Zoning Enforcement Officer is doing about the signs around town, and not only are they growing along the side of the road, but now they are growing on the town green. I just went to my credit union today, and I actually went into a business and asked them to remove their sign from the side of the road, because I could not see going to the left, I'm taking a right hand turn on Hartford Avenue, it's getting out of control. We have professional painters, college signs, and everything else, I know you guys are working hard on this, but it's almost like, why do you even bother because it's, they don't listen, they don't stop, it's out of control. Thank you.

Chairman Pruet: Could you give me that address, where you had the visual problems?

Rose Lyons: Where the Newington VA Credit Union is. The man was very nice. I went inside and I said, has anybody told you, I'm coming to tell you that those two signs for burritos or whatever are blocking my vision.

Chairman Pruet: Hartford Avenue and Mountain Road, okay.

Rose Lyons: He said, nobody told me that. Well, apparently nobody took the time to turn around and come back and tell you, but I did.

Chairman Pruet: We will have the Zoning Officer pay a visit there. Thank you Mrs. Lyons. Anybody else from the public?

V. **REMARKS BY COMMISSIONERS**

None.

VI. **MINUTES**

A. March 27, 2013

Commissioner Sobieski moved to accept the minutes of the March 27, 2013 Regular Meeting. The motion was seconded by Commissioner Camillo. The vote was unanimously in favor of the motion, with six voting YES.

VII. **NEW BUSINESS**

A. **Petition 17-13: Extension to Site Plan Modification Expiration Date for Petition 16-07 (Newington Shopping Center) Lowry Place at 75 and 103-175 Lowry Place, Hersher Trust Holding Company LLC, owner/applicant, Eric Gross 1087 Broad Street, Bridgeport, CT contact.**

Chairman Pruet: Is the petitioner present? Good evening Councilor.

Attorney Sabatini: Good evening, I am not Eric Gross. I am Vincent Sabatini, Attorney of One Market Square. I'm here on behalf of Mr. Gross who is a trustee of the present owners of the shopping plaza and post office. I'm here representing Best Yet Market Incorporated from Long Island New York who were the successful bidders on the property a couple of weeks ago, and will become the owners of the property on May 6th, when they have the closing, so on their behalf and on behalf of the owners, I'm urging the Commission to extend the approval for another five years so that the new owners can have an opportunity to examine what is there, and hopefully make all of the improvements that were approved five years ago. If you have any questions, I'd be happy to answer them.

Chairman Pruett: Staff comments?

Craig Minor: I gave the Commission a rather detailed memo, but what I will repeat for the benefit of the audience, when ever an application is about to expire comes before you for renewal, I always ask that you consider first, has the character of the neighborhood changed, such as maybe today you wouldn't want to approve such a thing, or the zoning regulations have changed that would make it non-conforming, or less desirable. I don't think either of those are the case in this situation, so I have no objection to approving the five year extension.

Chairman Pruett: Commissioner comments on this? Consensus to close this and move it to Old Business. We are going to move this to Old Business tonight. Thank you.

VIII. OLD BUSINESS

A. Petition 10-13: Special Exception Section 6.2.4 Freestanding Business Sign at 505 Willard Avenue. Hartford hospital Eye Surgery Center, applicant; Newington Realty LLC owner, Darcy Roy/National Sign, 7 Burning Tree Lane, Wallingford, CT, contact.

Commissioner Hall moved to approve, with conditions, Petition 10-13 Special Exception Section 6.2.4 Freestanding Business Sign at 505 Willard Avenue. Hartford Hospital Eye Surgery Center, applicant; Newington Realty LLC, owner, Darcy Roy, National Sign, 7 Burning Tree Lane, Wallingford, CT, contact.

Conditions:

1. The internal illumination of the Freestanding Business Sign on Willard Avenue (Sign #1) will be timed to turn off no later than 11 p.m.

The motion was seconded by Commissioner Sobieski. The vote was unanimously in favor of the motion with six voting YES.

Petition 17-13

Extension to COA #16-07 (Site Plan Modification)

75 and 103-175 Lowry Place

Hersher Trust Holding Company LLC, owner/applicant

Commissioner Camillo moved to approve Petition 17-13: Extension to Site Plan Modification Expiration Date for Petition 16-07 (Newington Shopping Center Lowry Place) at 75 and 103-175 Lowry Place. Hersher Trust Holding Company LLC, owner/applicant Eric Gross, 1087 Broad Street, Bridgeport, CT, contact.

Conditions:

None

The motion was seconded by Commissioner Anest.

Craig Minor: Mr. Chairman, before you vote, could I just mention for the record, the applicant did ask that it be for a five year extension. Thank you.

Chairman Pruet: We will accept Mr. Miner's remarks into the motion.

The vote was unanimously in favor of the motion, with six voting YES.

B. Petition 12-13: Site Plan Modification at 129 Patricia M. Genova Drive, Hartford Hospital, owner, Clinical Laboratory Partners, applicant, James Hughes, 135 Highland Street, Wethersfield, CT, contact.

Commissioner Sobieski moved to approve, with one condition, Petition 12-13: Site Plan Modification at 129 Patricia M Genova Drive, Hartford Hospital, owner, Clinical Laboratory Partners, applicant, James Hughes, 135 Highland Street, Wethersfield, CT, contact
The condition is:

1. The site plan shall be revised to contain the information requested in the Town Engineer's letter to the Applicant dated March 26, 2013.

The motion was seconded by Commissioner Leggo. The vote was unanimously in favor of the motion, with six voting YES.

C. Petition 38-12 Special Exception (Section 3.15.8: Motor Vehicle Service Use) at 2903 Berlin Turnpike, Wex-Tuck Realty LLC owner, Bismarck Real Estate Partners Inc. applicant Jason Mikrut P.E., 54 Tuttle Place, Middletown, CT, contact person.

Commissioner Anest recommended two separate motions. The first is to grant the waiver for the overhead service doors; if that gets approved, the second motion is to grant the overall Special Exception.

1. Overhead Service Doors Waiver:

Commissioner Anest moved to approve, with conditions, the request to alter the overhead service door restriction of Section 6.11.7 in accordance with that section, allowing the installation of overhead service doors on the Berlin Turnpike side of the proposed building.

Findings:

1. Due to the visual screening provided by the plantings on the landscaped berm shown on Sheet L-1 (Planting Plan) and Profile Sight line Exhibit #1 and #2 and the statements made by the applicants during the public hearing, the Commission finds that the proposed overhead service doors will not be visible from the street.

Conditions:

1. The Commission reserves the right to require additional planting on the berm if it finds that the planting do not provide the degree of screening indicated in the applicant's presentation.

The motion was seconded by Commissioner Sobieski. The vote was unanimously in favor of the motion, with six voting YES.

2. Approval of the Special Exception:

Commissioner Anest moved to approve, with conditions, Petition 38-12: Special Exception "(Section 3.15.8 Motor Vehicle Service Use) at 2903 Berlin Turnpike. Wex-Tuck Realty LLC, owner, Bismarck Real Estate Partners Inc., applicant, Jason Mikrut P.E. 54 Tuttle Place Middletown, CT, contact person."

Findings:

1. The Commission has considered the criteria listed in Section 5.2.6 and is satisfied that this activity will not impact the public health, safety and welfare of the local residents.

Conditions:

1. In order to abate any noise that might result from the use of power tools and other equipment being used to service customer's vehicles, the overhead service doors on the west side of the building will be kept closed except when moving vehicles into and out of service bays.

The motion was seconded by Commissioner Sobieski.

Craig Minor: Mr. Chairman, as the Commission can see, there was a second condition which I lined out. Let me back up, it was my understanding, and I misunderstood the plan, was that deliveries for the Firestone building would come in from Main Street or the Berlin Turnpike and would be, for some reason, park in this area here because these trucks are big. From the looks I'm getting from the Commissioners, I'm the only one that thought that, because the plan always was for the trucks to come in from Main Street and maybe swing out over these parking spaces, but then go into the Firestone site, or if they come in from the Berlin Turnpike, come in and turn directly into there. At worse, maybe come in from Main Street and have to swing around Bonefish Grill, but still end up in the loading area which is shown on the plan here. There was never any intention for them to park their delivery truck on the Bonefish Grill, so when that was brought to my attention the other day, I deleted it as a condition, but if the Commission still wants to put it back in, in some other form, then that's the Commission's prerogative.

Commissioner Anest: I have a question. I understood it, that the truck was going to come in and then go around and then back in. Our concern was, if there were cars parked for lunch, which I have noticed that Bonefish is open for lunch in Manchester, that they are going to come in, the cars are going to be in the way. That's how I understood it.

Craig Minor: Mr. Chairman, if you like, I can ask the applicant's engineer who is here, to clarify that, which, that is a legitimate thing to do even though the hearing is closed. He is

just clarifying something that is already on record, but there is some misunderstanding, so if the Chairman would like that, Mr. Mikrut, do you want to clarify that? Thanks.

Jason Mikrut: Good evening everyone, I'm senior project engineer for Vanasse Hangan and Bruslin and just to go through the truck movement, the truck cannot come off the Berlin Turnpike, the Berlin Turnpike is restricted for truck access. So the truck will be coming in off of Main Street, making a left into the Main Street entrance, will come down through the Bonefish site drive, pull forward over into the access drive here, and back into the Firestone lot, where the loading area is shown on there, and then exit back out onto Main Street.

Chairman Pruett: Okay, thank you.

Craig Minor: Thank you.

Chairman Pruett: I would like to comment on this, I think the restrictions of moving in before lunch should be kept in the motion for a safety feature and also better for the residential, so if we can re-state, and add that to the motion.

Condition Number 2:

If the adjacent Bonefish Grill initiates lunch and/or brunch service, no truck deliveries for Firestone may be made later than 11 a.m.

The vote was unanimously in favor of the motion, with six voting YES.

D. Petition 39-12: Site Plan Approval ("Firestone Complete Auto Care) at 2903 Berlin Turnpike, Wex-Tuck Realty LLC, owner, Bismarck Real Estate Partners, Inc., applicant, Jason Mikrut P.E. 54 Tuttle Place, Middletown, CT contact person.

Commissioner Lenares moved to approve, with conditions, Petition 39-12: Site Plan Approval (Firestone Complete Auto Care") at 2903 Berlin Turnpike. Wex-Tuck Realty LLC, owner, Bismarck Real Estate Partners Inc., applicant; Jason Mikrut P.E. 54 Tuttle Place Middletown, CT, contact person.

Conditions:

1. The applicants shall revise the plans to show a partial turning lane on the east side of Main Street, with the understanding that if the Office of the State Traffic Administration (formerly the STC) prohibits this, it would not invalidate the rest of their site plan approval.
2. The applicants shall revise the plans to show pavement markings in the "Bonefish Grill" parking lot to address the staff's concern with possible conflicts between "Bonefish Grill" customers and customers entering and leaving the Firestone site.
3. The plantings on the berm and around the site shall be, at a minimum, as shown on Sheet LP-1 and on Profile Sight Line Exhibit #1 and #2.

The motion was seconded by Commissioner Camillo. The vote was unanimously in favor of the motion, with six voting YES.

E. Petition 40-12: DMV Location approval ("Firestone Complete Auto Care") at 2903 Berlin Turnpike, Wex-Tuck Realty, LLC owner, Bismarck Real Estate Partners Inc., applicant, Jason Mikrut, P.E. 54 Tuttle Place, Middletown CT, contact person.

Commissioner Hall moved to approve Petition 40-13: DMV Location Approval ("Firestone Complete Auto Care") at 2903 Berlin Turnpike. Wex Tuck Realty LLC, owner, Bismarck Real Estate Partners Inc., applicant Jason Mikrut P.E. 54 Tuttle Place, Middletown, CT, contact person.

The motion was seconded by Commissioner Anest. The vote was unanimously in favor of the motion, with six voting YES.

IX. PETITIONS FOR PUBLIC HEARING SCHEDULING (April 24 and May 8)

A. Petition 16-13 Special Exception Section 3.2.8: Charitable and Civic Event) for the annual "Farmers Market" at the Municipal Parking Lot. Town of Newington, owner, Val Ginn, 56 Farmingdale Road, Wethersfield, CT, applicant/contact.

Craig Minor: We have the market, the Farmers Market which is, I believe this is the fifth year of it. Three years ago it received a Special Exception from the Commission that was good for three years. So, 2010, 11 and 12, so they are back for a special exception.

Chairman Pruett: We're very familiar with that, so I think we should go ahead and put that on the docket, I don't think it will be too pressing on our schedule.

X. TOWN PLANNER REPORT

Staff Report

Craig Minor: You have my written report. The first items, Zoning Enforcement Issues raised at previous TPZ meetings:

A. Façade changes at the CVS on Main Street. Mr. Hanke told me yesterday that CVS has agreed to remove the red panels, quote, by the end of the week, and I overheard someone say that they are doing it, did it this afternoon.

Commissioner Aieta: What did they replace them with? Did they replace them?

Craig Minor: I don't know, I just overheard someone from the audience say that they were working on them.

Commissioner Aieta: The whole idea of the removal of the panels is to restore it to its original condition, which was white raised panels. If that hasn't been done, and you can look now more into the store, then that's not the condition that we approved on the original application.

Craig Minor: That's correct.

Item B; Traffic change at Farmington Bank, I have nothing new to report.

Item C: Pickup truck cabs in front of 135 Fenn Road. Mr. Hanke sent a letter to the property owners several weeks ago informing them of the issue with no response. If they do not respond by next Wednesday, and that would be today, Mr. Hanke will send them a notice of violation.

Old Performance Bonds, I said I would submit an updated report but again, I haven't had a chance to work on this since the last meeting. There have been a few other issues that have taken up a lot of my time, but I'll get back to it.

Status of Modern Tire: The plaintiffs submitted their response, I have it available, I can PDF to the Commissioners, if they would like a paper copy I can make that for them, it's about six or seven pages, not very long.

Newington Junction Planning Study: According to the CCROG the consultants will be in Newington later this month gathering information. I will be meeting with them at that time.

Low Impact Development Regulations Project: The project is delayed due to problems with Fuss and O'Neil's standard contract language. Newington's Director of Administrative Services is working with them to resolve this. There is apparently boiler plate language in Fuss and O'Neil's contracts that our insurance carrier does not accept, so they are trying to resolve that. If they can't resolve it soon, because we are under a severe time constraint to get this project done, if they can't resolve it quickly, I'll have to go back to the committee and suggest that the committee look to the second highest applicant for the contract. Hopefully they will be able to work it out soon.

Affordable Housing Regulations Technical Assistance Grant: It just came to the Economic Development Director's attention a week or so ago, that CCROG is also offering money, grants to towns that want to look at their zoning regulations to see if there are ways that the regs could be adjusted to encourage more affordable housing, either as stand alone affordable housing, or affordable housing as a component to a mixed use development, and it, there's a, it's a technical assistance grant, so if we are approved for the grant, what we would do is to use the money to hire a consultant to help us gather data on the needs of Newington residents, particularly senior residents. Mr. Brecker has clarified, well we had a follow up meeting the other day and he feels now that perhaps it should be targeted for senior affordable housing, which Newington, like many towns needs more of. The Plan of Development specifically mentions this as an issue that Newington should possibly look into, so I'm working on a grant application, and it needs to be submitted in a couple of days, so time is kind of the essence, and obviously there will be a full discussion by the Commission, but it's just a grant to get money to help do research into, and this is the way I'm going to write it unless you tell me otherwise, to identify or to do research into the need for affordable housing for seniors, and number two, if there is a strong need, and if there is an actual demand for affordable housing for seniors and if so, areas of Newington that would probably be appropriate for what would probably be an overlay zone to promote affordable senior housing and then draft some regulations that would create what would probably be an overlay again, to promote affordable senior housing. So I'm going to leave it at that, I mean, I'm going to stop talking and let the Commissioners discuss it and then, depending on how, what the consensus is, I'll either go forward with it or not.

Chairman Pruet: Clarification, on a study, there is no commitment per se, it's a recommendation to be brought to this Commission for our review, and probably also to the Town Council?

Craig Minor: That's correct.

Chairman Pruet: Okay, and it can be specific in nature, for example, you mentioned senior. We can have that study for senior housing per se.

Craig Minor: Yes, that's how I was working on the grant today. That's how I'm writing it, that the goal would be for senior affordable housing.

Commissioner Aieta: You will never get the grant if you put in there that it's only for senior housing. The State of Connecticut is looking for, they don't discriminate between seniors and other affordable people. You will never get the grant.

Commissioner Lenares: I would be in favor of supporting something that stated senior housing, the less words the better, I'm not sure, I like the fact that the Town, or this Commission wants to look at something, senior housing, I don't know if we have enough of it, too much of it, not enough, I can't make that decision, but senior housing would be the words that I would use. If it's a necessity, maybe the research will find it so, maybe not. Maybe like Frank says, it's a no go if those other words are not used, but that's not my opinion, my opinion would be senior housing. I wouldn't be opposed to something that was looked at, but like the Chairman said, we are not committed to anything after that.

Chairman Pruet: Just to elaborate on what Commissioner Lenares said, from what I've been told by Mrs. Stone and also from the Housing Authority, there is a need, almost an acute need for senior housing, and also Mr. Minor did say that in our Plan of Development we would ascertain the needs and address the needs for senior housing, so, my personal opinion, nothing ventured, nothing gained. If we had the grant study for that portion of our citizenship, it would be a positive thing.

Commissioner Lenares: Let me just clarify Mr. Chairman, I support the study, if there is a need found, that would be great, but for senior housing, if there is a need, I fully support it, and I fully support the study.

Commissioner Anest: I concur with Commissioner Lenares. I would be in favor of going forward with the study for senior housing. My only concern is, and this is jumping the gun a little bit, when ever we do housing, the housing that is going up for seniors, for veterans, it doesn't seem like our Newington residents are the first ones, and if Newington residents are the first ones that are looking for senior housing, and nice senior housing, not apartments, not small one bedroom apartments, but more of a house thing, there's no way for us to guarantee our Newington residents are going to get in. That is my big concern with senior housing in town, and I know that we need senior housing, but I want it for our residents. I know we can't be prejudice like that, but when you go out to non-profits and they use federal funds, you know, so they get a couple of extra points on their application, but then our own Newington residents who want to stay in Newington and want senior housing, are going to be out of it, and I know that, I would love to see the economic developer try to get a private developer if this does go forward, so it does take care of our own Newington people who deserve to stay in this town.

Commissioner Sobieski: I concur with Carol. I'd like to see a project and have Newington residents have the first shot at senior housing.

Commissioner Aieta: The problem is Carol, why we have an outcry from the Town of Newington that we don't have enough senior housing is because the senior housing that we build does not go for Newington residents. That's the whole crux, that's why we don't have enough. We have senior housing, right around this complex here, but it's our own residents in the Town of Newington who aren't getting into those, and are being spread out all over the place, so that's why we always here the cry, we don't have enough senior housing, because we aren't filling it with our own people.

Chairman Pruet: You mentioned mixed use too. Just a clarification, that would be business, residential type of components too

Craig Minor: Yes.

Chairman Pruet: Wouldn't hurt if that could be in there too, if it could be like a major and a minor type of thing, for senior and for mixed use, if that is possible?

Craig Minor: Yes, in fact the notice of the grant availability said that the project to be funded could be either affordable housing, or mixed use with an affordable housing component, and when I started work on the grant, I thought, well that's something that I think many people in Newington could get behind, so that was where I started, but then the more I discussed it with the economic development director, he felt more strongly that it should be directed for senior housing rather than mixed use in housing, so I'm trying to, I'm pulled all over the place, but obviously it's up to this Commission where you want the grant language, what direction you want it to go in.

Chairman Pruet: Just a clarification, could that be mixed and senior, or mixed and affordable?

Craig Minor: Mixed and senior, well, okay, senior okay.

Commissioner Anest: I'm just concerned that when we say mixed use that they are not looking at it as residential, not just senior residential, and I personally can't support that.

Craig Minor: Understood, and that would be how I would write the grant application and I will certainly send a copy to the Chairman, a draft, and maybe to the Commissioners too, before it gets submitted.

Commissioner Aieta: All of this money is becoming available because of the busway. They are trying to build ridership for the busway, because we are going to have land adjacent to the busway that they are going to try to put affordable housing on, so they can make ridership for the buses that are going to be driving from New Britain to Hartford empty. So don't kid yourself that you think this is some kind of gift from the State of Connecticut, you don't get anything for nothing in this world. Especially from the State.

Chairman Pruet: Anybody else? The consensus is to go ahead with the senior housing? Anything else on your report?

Craig Minor: No, that's it.

XI. COMMUNICATIONS

Chairman Pruet: I have a communication. Any Commissioner interested in taking some courses by UConn concerning land development, there's a web site, it's Clear.UConn.edu and there are funds available in our budget to do that, so, or if anyone would like to look at this brochure, I'll leave it here. There's several different courses.
Any communications?

Craig Minor: No, but you have the ZEO's report for last month.

Chairman Pruet: Yeah, if you could mention it to Art tomorrow on that Hartford Avenue sign that's blocking, if you could have him check that out, I'd appreciate it.

XII. **PUBLIC PARTICIPATION**(for items not listed on the Agenda, each speaker limited to two minutes.)

Rose Lyons, 46 Elton Drive: I don't know whether you can answer this, whether the Town Planner's report is an agenda item, or do you consider petitions agenda items? I'm just curious?

Chairman Pruet: Please remark on them.

Rose Lyons: As a senior who has lived in Newington for sixty-five years, who is contemplating selling her home, I have looked at a lot of areas in Newington. I looked at the Housing Authority, they have one set of rules. I've looked at New Samaritan, they have another set of rules, and at New Samaritan they were very nice. They sat down and give me at least a half a dozen plans, and their criteria. I don't know how, I understand applying for a grant, but I don't know whether you have to abide by their decision. If you are committing to doing something, then let the state keep their money because they are not fooling anyone. They are not fooling me, and I'm sure they are not fooling you what they are looking for. I am considering going to Berlin because they have affordable housing, and the reason we don't have affordable housing like they do at Orchard Ridge or Stonebridge is because Newington has no open space. So, we created our own problem, and I am sure that there are a lot of seniors like myself that are living in a three bedroom home, with a lot of land, I can't afford, but I almost can't afford the prices of the rents either. So I'm in a catch-22 situation, so I would suggest that whatever the wording of that grant be, somebody look it over very carefully, I'm sure you will, but like I say, I've been the route and the gambit, and I can tell you, it's not an easy thing.

The other comment I have to make, and I don't know if this is something you do or don't do, I've asked often who follows up on the conditions that you set forth on your approval of the applications? Commissioner Pruet, you know I've been a little bit crazy about the Dunkin Donut over on Willard Avenue, way before they even talked about the busway, because I thought there were conditions there that apparently weren't in place, or if they were, they never followed through on them. I was wondering whether or not these neighbors who came, who took the time to come to the public hearings and voice their concerns are getting or will get written notification of the approval by this Commission along with the conditions as set forth in the approval, because I would think, if I was the neighbor of this Firestone, I would like to know what conditions are set forth, and I would make sure that they were following the conditions, and if they weren't, I'd be in touch with the Zoning Enforcement Officer. Thank you.

XIII. **REMARKS BY COMMISSIONERS**

Commissioner Anest: Can you find out what percentage of Newington residents are accepted into senior housing? And then, regarding Victory Gardens, there's no c.o. yet, right?

Craig Minor: Correct.

Commissioner Anest: Can we get that road fixed?

Craig Minor: Where?

Commissioner Anest: Willard Avenue and Veterans Drive. Can you follow up on that please? I've been told that it's going to be done, and nothing has happened.

Craig Minor: I'm sorry, what exactly is.....

Commissioner Anest: The road.

Craig Minor: Well, what about the road?

Commissioner Anest: It's a washboard. From Dowd to, past Veterans Drive, I mean, I'm surprised people have not blown out their tires.

Craig Minor: So they compact it at the end of the day, but they don't put down cold patch, or....

Commissioner Anest: There's cold patch, but.....

Craig Minor: It's like a washboard.

Chairman Pruet: It's blown out in a couple of spots.

Commissioner Anest: People, they serve into the other lane.....

Craig Minor: To avoid driving over it, okay.

Commissioner Anest: It's a mess. It's heavy traffic.....

Chairman Pruet: If I'm not mistaken, it's not a Newington road, correct?

Commissioner Anest: It's a state road.

Commissioner Sobieski: Veterans Drive is Newington.

Chairman Pruet: Veterans Drive is Newington?

Craig Minor: At that point, yes. But even if it's state or public, the developer is still responsible for.....
I'll talk to public works about that.

Commissioner Anest: Why not the contractor?

Craig Minor: Well, they have meetings regularly.

Commissioner Sobieski: I'm just curious about something. The house that we were talking about, that the state owns, my understanding is that it is not connected to public water and public sewers. They have a septic system out there. Is that something that the state should be putting out on their RFP when putting this out to bid? That this is not hooked up to utilities. I don't know, I'm asking the question, or should we ask them to put that in?

Craig Minor: I don't know.

Commissioner Sobieski: I don't know either.

Commissioner Aieta: If the zone does not get changed and it stays as a, and it get sold as a commercial parcel, then they are going to have to hook up to water and sewer because water

and sewer are available in front of that property. So if it comes before this Commission it would be, that's in our zoning regulations. If the utilities are available, they have to hook up.

Commissioner Sobieski: I didn't think the line went down that far.

Commissioner Aieta: Well, if it's not exceedingly long to get to it, they would have to bring it to the property.

Commissioner Sobieski: I wasn't sure, that's why I was asking.

Chairman Pruet: Anybody else?

Commissioner Aieta: Just a clarification, on the Wex-Tuck application, 38-12, was it the intent of the people who voted for it that we allow the doors facing the Berlin Turnpike to be left open.

Chairman Pruet: Yes.

Commissioner Aieta: Your intent was to allow them to open them during the summer?

Commissioners: Yes.

Commissioner Aieta: One other thing, can we discuss the Town Attorney's opinion on the alternates, the alternates role on this Commission and where that came from? Asking for an opinion, need some clarification of what happened and why it happened at a certain time.

Craig Minor: That's a good question. At the end of the meeting on March 27th, when the Commission had deliberated on the Firestone project, the meeting was over, I was cleaning up, everyone had left, the attorney for Firestone approached me and reminded me, which is something that I knew but I hadn't thought about, that under Connecticut legal, FOI if you want to call it, the law is that an alternate Commissioner who is not seated during the public hearings on an item that had a public hearing, once the hearing is closed and it goes to deliberation, at that point, the alternate is not allowed to participate in the discussion because the alternate was not seated during the public hearings. Now I knew that, but it's such an esoteric aspect of land use law that I wasn't thinking about it, but the attorney pointed it out to me, and so I conveyed it to the Chairman and he said, really, or words to that effect, and I explained how I was aware of that because when I was a Town Planner in Cromwell an issue came up, and the Town Attorney explained it to me, so at the request of the Chairman I contacted Peter Boorman, Newington's Town Attorney and Attorney Boorman confirmed that basically an alternate who was not seated for the public hearing portion cannot participate in the discussion once it gets to deliberation. Now there are all kinds of questions. What if the alternate was there for one of the hearings but not the other, of what if, and I think this is interesting, what if tonight, one of the full members wasn't here, would Commissioner Aieta have been seated to, or one of the alternates be seated and then vote on it. Yes, you could, because you would have been qualified to vote because you were physically at all of the public hearings, but because you weren't seated, you weren't allowed, or the Town Attorney has said that you can't participate in the deliberations. It's really, it's a really fine point of law.

Commissioner Aieta: If that's the case, then we have to look at the procedure that we are following, and how we are moving these things forward. Firstly, on this petition here, why it got so screwed up is because we lumped, we allowed the attorney to lump everything together, which was a procedural mistake, and as a Town Planner you should have advised the Chairman that we should not have lumped them together because that didn't afford me or

my other alternate members here to participate. We couldn't even ask questions about the site plan, stuff that we have a right to be able to ask questions about, because if we are called on to act on these things because someone is sick or doesn't show up, then we need the information. I have no problem in not talking about the motion and the conditions of the motion, after it has been completely aired. So, if we are going to do that, then I'm going to ask you not to close any of these things until we have an opportunity as a Commission to discuss it. Is that, then don't close it so that we can have our input and our questions answered because if I'm asked to sit and vote on something, I want to know everything about it, because I'm not going to make a mistake and vote the wrong way because of ignorance because I didn't know all of the answers of what was going on. It's not going to happen. I won't sit.

Craig Minor: Well let me address a lot of things. I agree completely, the hearing should never be closed until every Commissioner's questions should be answered. So don't ever let anybody rush you, never say never, but don't let anyone rush you into closing the hearing, if you still have questions that only the applicant or only a member of the public can answer. Now as far as the appropriateness of combining the different applications all in one presentation, that's standard practice so that you don't get the same presentation essentially multiple times. That's.....

Commissioner Aieta: That didn't afford us the opportunity.....

Craig Minor: Yes it did.

Commissioner Aieta: From what you are saying, I don't have the opportunity to question anything on that site plan.

Craig Minor: Because you weren't seated as an alternate. So make sure that the hearing doesn't get closed until all of your questions, as an alternate have been answered.

Chairman Pruet: I asked Attorney Boorman to clarify it, and he did, and I believe I sent it out again this morning. I asked him point blank, can an alternate speak under an initial public hearing? Yes. I asked him can an alternate speak under New Business because we are not going to deliberate and vote on it? Yes. So, he gave me that, so yes, an alternate can, and welcome those comments. We have done that since day one. I'm the first one to admit, and I talked to other Commission members and Chairman too, that's the way we were doing it.

Commissioner Aieta: Since this Commission was incorporated from a Zoning Board into a Planning and Zoning Commission, from that day. Half of you people who sit on here were alternates, and I find, you know, I understand now that I know where it came from, I understand how it could affect the outcome of some applications.

Chairman Pruet: But to take a point further, I welcome the comments from the alternates.

Commissioner Aieta: We have to be careful that we don't close things too prematurely so that we have an opportunity to be informed, so if we are called on to sit in someone's stead, then we have, we can make a decision, an intelligent decision. That's all I'm asking. You notice that I didn't try to interject anything, even though I thought under that Petition that you might have considered closing the doors on the Berlin Turnpike side too, because in the summer, when those doors are open and you are driving by, you will see all of the guys working in there.

Commissioner Ekstrom: Hopefully not, isn't there supposed to be a berm?

Chairman Pruet: And we're making sure that they do put that berm in there, and it's on-going. So if a tree dies or whatever and we go up there, the Zoning Officer goes up there, would mandate that they have to maintain that berm.

Commissioner Aieta: I don't think that this question that they brought up has, I mean, I don't think we have ever gone beyond the point where you were voting, that any of the alternates pushed their views on, or asked a questions, that's never been the case. So if this was done the right way, then we wouldn't have had the problem at the last meeting, and the attorney probably wouldn't have said anything.

Chairman Pruet: We've had, plenty of times where they lumped....

Commissioner Aieta: On a controversial issue like this, we probably shouldn't have done it.

Chairman Pruet: I hear you, and I agree with you, but we had done it. I wish it was more segregated, but we've done that for expediency or clarification of both the Commission and the presenters, to make it more understandable or to move things along. I hear your point.

Commissioner Anest: Just a question though, when we do merge them. I was getting confused too because I had issues about the site plan, and we were kind of combining things, so when you do the Special Exception we aren't talking about the façade, or the doors, you are talking about why they want a special exception, so they should be two separate and distinct applications. They really should be. Even if there is some overlap, I think it would be beneficial to us showing that we are doing our due diligence in hearing the petitioner in the right, under the public hearing and the site plan.

Chairman Pruet: I think what you are saying is that we will err on the side of redundancy in a petition like that in the future.

Craig Minor: I think one thing that we could do, what I would do in the future, perhaps put the site plan application on the agenda under New Business and give applicant plenty of opportunity to explain it, and give all the Commissioners the opportunity to ask questions about the site plan, and even though it wouldn't have been a public hearing, and technically you wouldn't have to let the public speak if you didn't want to, at least it would be open and there would be a back and forth between the Commissioners and the applicant.

Commissioner Anest: I mean, don't put it in public hearing....

Craig Minor: Put it under New Business.

Commissioner Anest: Make it two different and distinct things, because if we have it in the public hearing, then the public thinks they have the right to speak about the site plan.

Craig Minor: Which technically they don't.

Commissioner Anest: Right.

Commissioner Aieta: So if we could close the hearing when you are ready to present the motion, and you have all of the clarifications, I think that is the time when you should close the hearing, when you move it to the next meeting, and the first thing that comes out of the box is when you read the motion, and the conditions are there, and the conditions should be, the conditions in that motion should be derived from the discussion when it's in the public realm. You have to remember that we have to build a record, because when these cases go

to the court, I've had discussions with Judge Levine on cases where he said that, I'm looking at this, and no one said anything. That's why I'm so, so persistent on getting stuff onto the record, because when the judge says to me, well, no one said anything, and you just passed it, where's the record, you can't substantiate your vote. He said that, he said that to me on a particular issue that I went and had a conversation with him.

Craig Minor: That's why you may recall, one of my memo's last meeting I said something to the effect of, when I presented these findings to you last month and nobody disagreed with them, I'm assuming that is your, and I said that for the judge, so that if the judge looks at this, the judge will say, yes, those were the Commission's findings. It may have come out of the Town Planner's typewriter, but those were the Commission's findings and those are on the record, so Commissioner Aieta is very right, and I am conscious of that, but I always appreciate for anyone to mention if we did tighten up, to make sure that everything is a matter of record and not just assuming that the Commission thought about something when they voted.

Commissioner Aieta: Ninety percent of what we do here is boilerplate, like moving that thing for the Lowry Place supermarket, I mean, that's stuff that we should do, to get, for economic development, to get things going. Ninety percent of what we do is that kind of stuff, but if we get into an issue like this where neighbors are upset and neighbors are concerned, they come here in force, like the Toll Brothers thing, and you know what issues are hot in this town, so those are the ones that you have to be more diligent in what you do.

Chairman Pruet: And, for the record, that Toll Brothers was kept open for a long time, it was kept open by design to negate any possibility that we're shutting the public off, or making a rash decision. Just like this petition here. I think the judge will find out there were plenty of comments and this was open for an extended period of time.

Commissioner Aieta: Thank you for a clarification of where it came from.

Commissioner Ekstrom: I have a question. Two weeks ago Craig got us copies of, I remember seeing it visually, as well as a packet that they handed out, but did we, at any other meeting, see the bigger site plans?

Craig Minor: You mean the one.....

Commissioner Ekstrom: I only remember seeing this, and when they made their presentation so that is when we were discussing about when the trucks were going to come in, so that's why I thought when the e-mail came around that it was us, because, I mean, there was something wrong, with, somebody mentioned something from the public, because they were also asking questions about that, so it was the first time that we ever saw the bigger plan.

Chairman Pruet: Gotcha, and you will see it in the future, we shared your same concerns, we're going to make sure that there are eight large prints so everybody can have, so we can share them, besides and Mr. Minor said he will also send out smaller prints, 11 x 5, so.....

Craig Minor: It will be this size, but it will be all that information just, the exact same detail but shrunk down, you may need to get a magnifying glass, but you will have, and this is easier to carry, and these I can mail. These are easier to mail also. So you will all get a copy of the site plan.

Commissioner Ekstrom: Okay, you know what I was confused about when we were at the meeting and we were all looking the bigger site plan.....

Chairman Pruett: And once that is mailed out to you too, if you can bring it to every meeting it would be helpful too. Some people forget to do that, but just a reminder, but we will have those larger plans available.

Craig Minor: But you did see it, you may have forgotten, you did see it because the applicant did.....

Commissioner Ekstrom: Oh yeah, up there, but.....

Craig Minor: You didn't have your own copy.

Chairman Pruett: Point well taken, we've got that covered.

Commissioner Ekstrom: Okay, good.

Commissioner Lenares: I don't want to beat this up any more, but just in defense of our alternates here, I didn't know where that e-mail came from either when I read it, or where the notion came from and I'm glad you touched upon that, that it was the attorney. I'm not really sure why she did that, or he, I don't know if she thought that any one of the alternates was trying to stifle her petition, and I think it's great that the Commissioners, not alternates, all the Commissioners, all ten of us, ask questions because it might be helpful to what is going on, so I mean, I don't know where that came from or if she felt it was a negative aspect of her petition going on and that's why she asked that the alternates not speak, but I kind of felt that they were slighted a little bit, and it's not right, because they work as hard as we do, if not some of them work harder than we do, and I just didn't really like it, because I was an alternate and basically the powers that be told me, what do I do if I'm an alternate, do I not go, do I go if someone isn't there, you can do everything but vote. Talk, talk, talk, discussion, discussions, you can't vote. I said, okay, and so I gave my opinions when warranted and more often than not, Frank comes up with some pretty good ones. I don't agree with him all the time, but he comes up with some interesting aspects that I didn't think of. I value that, and to stifle them, like you said maybe under New Business, or not, would be terrible. So, in their defense, as I once was, kind of a bad thing.

Craig Minor: Well, in the attorney's defense, she wasn't trying to stifle any Commissioners input. Her concern was because this application is under a microscope, and because she is looking over her shoulder, she was concerned about a procedural error that could be exploited by people opposing the project. That was her point, and it was a good point.

Commissioner Ekstrom: I just have a question. So, after a public hearing, when it's closed and goes to Old Business, we are not able to ask questions?

Craig Minor: That's correct.

Commissioner Ekstrom: I'm understanding that.....

Craig Minor: Basically that is correct, but before you go on, as we saw tonight, maybe from me more than anyone else, there was a question about how the trucks move, it's okay to ask an applicant after the hearing is closed to clarify a specific fact that was made during the presentation but might have been misunderstood by the Planner and/or the Commission.

Commissioner Ekstrom: Yeah, I'm just saying, as alternates, we are cut off after you guys move it to Old Business.

Commissioner Aieta: That's the rub there.....

Commissioner Ekstrom: So my next question is, what if we do have something that we want to ask? Is there a way to ask it? Can we discuss it at the end, you know, why should we....

Craig Minor: You can call me during the day and explain your question to me, I can then figure out and either get the answer to you, or in a way that doesn't violate ex parte communication, bring the point to the Commission, but it has to be done carefully so as not to violate the intent of the alternate not being allowed, the point is, to, the point is I guess that you not unduly influence the Commission if you are not seated, but I think if you just have a question, that, I don't know if that would influence, but that should come through the Chair.

Commissioner Ekstrom: But it could be taken care of through this. I was just wondering.

Commissioner Aieta: We could avoid that when we have all the input and we close it and then the next act of business is that it moves to the next meeting and that is when we come forward with the motion, and we would not be able to comment on the motion or the conditions. You would have to, that's why I'm trying to keep it open as long as possible so we can get as much onto the record as possible, so we understand what is going on.

Craig Minor: And there is no law against me having a draft motion approved for discussion while the hearing is still open. I have to be careful, because you can't assume that, you would have to be careful, but at least the issues that might be conditions of approval could be discussed during the public hearing phase, that's a possibility, as long as there is no appearance that.....

Commissioner Aieta: Just don't shut it off until we are ready, that we all know that it is time to put forward a motion, and we have conditions set where everybody is happy with the conditions.

Chairman Pruet: I don't think I have done that.

Commissioner Aieta: Is there a place, is there a statute or something that actually tells what our, what we can do and what we can't do as alternates. Is it some where stated?

Commissioner Ekstrom: During a hearing, when we are all discussing it, including alternates, if somebody says, including the alternates, no we don't want to move this forward to Old Business, can we keep it open? Does there have to be more than one of us? Does there have to be a certain number of yeas and nays?

Chairman Pruet: It's consensus to move, it's consensus.

Commissioner Ekstrom: Okay, because we don't want every application to be held up, but I was just wondering.

Chairman Pruet: Someone voices an opinion that has merit, to keep it open, yes, but if the consensus is to move it forward, we go by consensus.

Commissioner Ekstrom: Just like we have been doing right along.

XIV. CLOSING REMARKS BY THE CHAIRMAN

None.

XV. ADJOURNMENT

Commissioner Sobieski moved to adjourn the meeting. The motion was seconded by Commissioner Camillo. The meeting was adjourned at 8:40 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary